



CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
SEPTEMBER 5, 2006

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Edens, Marraffa, Schlichting (arrived 8:45 p.m.), and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Finance and Administration Director Belton, Planning and Code Administration Director Ossont, Captain Chris Bonvillain, Planners Eby and Robinson, Community Planning Director Schwarz, Planner Marsh, Human Services Director Carr, Homeless Advocate Frazier-Bey, City Attorney Borten and Executive Assistant Stokes.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by William Alford, Wells/Robertson House Graduate.

II. INVOCATION

The invocation was led by Maxine Oliver, Baha'i Faith.

III. APPROVAL OF MINUTES

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the minutes of the Mayor and Council meeting held August 21, 2006, be approved.

Vote: 3-0-1 (Abstained: Edens)

IV. APPOINTMENTS

Resolution Confirming Appointments and Reappointments by the Mayor

This resolution confirms the following: **Community Advisory Board**, Aurelio "PJ" Rivera, III (appointment), 716 Quince Orchard Boulevard, Apt. #201, Gaithersburg, Maryland 20878, two-year term; **Market Square Advisory Committee**, Dee and Joel Aronson (reappointments), 106 Midtown Road, and Richard Arkin, 121 Selby Street, Gaithersburg, Maryland 20878, two-year terms; **Police Chief's Advisory Committee**, Sigrid McCutcheon (appointment), 142 Lake Street, Gaithersburg, Maryland 20878 and the **Technology & Innovations Committee**, Richard Reynolds (appointment), 531 Coral Reef Drive, Gaithersburg, Maryland 20878, two-year term.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS AND REAPPOINTMENTS BY THE MAYOR TO THE COMMUNITY ADVISORY BOARD, MARKET SQUARE ADVISORY COMMITTEE, POLICE CHIEF'S ADVISORY COUNCIL AND TECHNOLOGY & INNOVATIONS COMMITTEE (Resolution No. R-90-06), be approved.

Vote: 4-0

V. PRESENTATIONS**1. Proclamation**

Mayor Katz issued a Proclamation designating September 2006, as *National Alcohol and Drug Addiction Recovery Month*. This year, the theme is, "Join the Voices for Recovery: Build a Stronger, Healthier Community." In addition to the Proclamation, the City will celebrate in many ways including:

- The promotion of City's involvement and resources via a press release.
- An Educational Open House on September 7th at the Wells/Robertson House facility, which will provide information on addiction, recovery, and resources.
- Recovery Picnic/Celebration for Wells/Robertson House residents and alumnae on September 30th.
- An article promoting the Educational Open House in the City's newsletter, the Communiqué.
- A Friends of Wells/Robertson House, Inc. booth at the 25th Annual Celebrate Gaithersburg Festival disseminating information and resources.

The City of Gaithersburg is proud to own and operate Wells/Robertson House, a transitional housing program for people who are homeless and in recovery from chemical addiction. Craig Holsten, graduate of the Wells/Robertson House program, accepted the Proclamation.

2. Update on the Day Laborer Center

City Manager Humpton read the following statement:

"Late last week I received notice from the property manager of the shopping center located at 117 North Frederick Avenue that it is the intention of the center owners to discontinue use of the parking lot there as an informal gathering site for the day laborers. I expect we will get formal notice of this sometime in the near future, though a specific date has not yet been set. It is my understanding the property manager has made outreach to Grace Church to inform them of this development and to gain their views on the matter. For the time being we will continue to enforce the 9:30am time limit at the shopping center site and ask the workers to move from the area after that time and tell them not to return until the agreed-upon hours the next morning. In the package you received last Friday, I included a memo describing current enforcement tools and other proposed approaches relating to this issue. These will be employed as needed as the situation evolves.

The search continues for an acceptable site. It is important for our community, once the shopping center location is closed, to be able to clearly articulate where the workers are to go.

I believe it is imperative that, at a minimum, a temporary site is found for the workers to go to given the shopping center's recent decision. Not having a site will cause great tension in the community and could cause a long-lasting divide. We are currently investigating one site at a shopping center within the City that staff believes meets the spirit of the task force criteria and the needs of the workers and the contractors. We had a positive conversation with the leasing representative for the property today. It is difficult to be optimistic at this point but by working with leaders in the Hispanic, faith and business communities, as well as the County government, I hope to have positive results shortly.

As we continue to explore the shopping center site, I believe parallel efforts are needed. With the Mayor and Council's concurrence I would like to work with Montgomery County to evaluate sites in several purely industrial areas that are just outside the City limits."

VI. PUBLIC APPEARANCES

1. *William Root, 419 Russell Avenue*, opposed to the \$160,000,000 refinancing bond to Asbury Methodist Village. Stated the proposed resolution does not describe the purpose of such refinancing bond and that the tax revenue would cause hardship to the residents.
2. *Mary Jo LaFrance, 105 Chestnut Street*, supports the findings of the Historic Preservation Advisory Committee and expressed opposition to the demolition of the Historic Talbott House.
3. *Richard Cook, 103 Leekes Lot Way*, served on the Day Laborer Task Force and expressed frustration with the solving of the issues. He asked that laws be investigated and enforced. He further asked for policy to manage the laborers at the proposed center. He suggested that the GE Tech Park property is a location that should be considered for a center.
4. *Cathy Drzyzgula, 16 Walker Avenue*, asked that other areas of Gaithersburg be considered for a day laborer site. She further asked that the City balance the needs of all the citizens of Gaithersburg.
5. *Reverend Mark Derby, Grace United Methodist Church*, expressed concern with the process to find a day laborer center, the safety of the laborers and residents in the neighborhood. He stated that enforcement would impact negatively. He further stated that the church cannot be the solution to a center site.
6. *Elizabeth Hosholder*, pleaded with the Mayor and City Council to develop a relocation assistance plan for redevelopment in the City.
7. *Cark Day, 26 Walker Avenue*, thanked the City for their efforts for the Labor Day Parade and their involvement in the Historic District picnic. He expressed concern with frequent loitering in his neighborhood. He referred to an article in the *Gaithersburg Gazette* on the August 21, 2006 regarding vandalism in the Kentlands and asked that Olde Towne receive the same consideration when it comes to solving problems in the Kentlands.
8. *Edward Richley, 14 Walker Avenue*, stated that businesses are frustrated with the day laborer issues. He stated that loitering and other complaints are real.
9. *Kenneth Joholske, former West Deer Park Apartment resident*, expressed support for the 120-day deferral for residential redevelopment.
10. *Richard Arkin, 121 Selby Street*, distressed over one area of the City giving negative attention to another area of the City, stating that the needs of the City should be looked at as a whole and not one-sided.
11. *Wayne Goldstein, President of Montgomery Preservation, Inc.*, referred to the Historic Talbott House and stated that the applicant according to Maryland State Department of Assessment and Taxation Records and public records in the Montgomery County Courthouse, has outstanding loans. He commended the City Council on their efforts relating to affordable housing.
12. *Michael Stumborg, 15 Walker Avenue*, disappointed in the list of enforcement laws received from the City. Stated that the day laborer center never went through a planning process and asked the leaders of the City to lead its citizens. He expressed concern with the County having the authority to select a center operator if such a site is found. He expressed frustration with the lack of leadership by the Mayor and City Council.
13. *Thomas Cowley, Devereaux Terrace*, expressed a strong concern for the need of a comprehensive affordable housing policy for the City. He expressed support for the proposed 120-day deferral residential redevelopment ordinance. Stated that those displaced due to relocation need assistance.

14. *Demos Chrissos, Tschiffely Square Road*, recently visited the Motor Vehicle Administration and expressed concern with the 6:30 a.m. early services for Hispanic residents, but was turned away and told to wait until 8:30 a.m. Stated he would support an effort to recall and remove Mayor Katz and Members of the City Council if they allow Gaithersburg to become a magnet city for further illegal immigration. He further questioned the leadership of the City Manager.
15. *Bob Drzyzgula, 16 Walker Avenue*, supports the Historic Preservation Advisory Committee's findings in opposition to the demolition of the Historic Talbott House.
16. *Linda Gore, 60 Oak Shade Road*, asked that the 120-day deferral proposed ordinance be extended to 180 days. She expressed concern with a developer being exempt from deferral because of their 7.5 percent Moderate Priced Dwelling Units proposed for a redevelopment. She expressed concern that the loss of rental units may contribute to homelessness in the Gaithersburg.
17. *Charles Brown, Maryland Avenue*, thanked the City Police for their prompt attention when called. He stated that crime comes from many different sources. He asked that a decision be made about a day laborer center in Gaithersburg.
18. *Patty Kaczmariski, 11127 Captains Walk Court*, appreciative of the City's action for affordable housing. Expressed support for the proposed 120-day deferral residential redevelopment ordinance.
19. *Dan Searles, Walker Avenue*, supports Reverend Derby's position and the recommendations of the Day Laborer Task Force. He suggested that the City lease land to a church, allow a Gaithersburg faith-based coalition operate the center and fund it with County funds. He asked that laws be amended to ensure that tax paying citizens of Gaithersburg are protected.
20. *Steven ?, Summit Hall Farm area*, expressed concern that neighborhoods are being destroyed, stating that single-family dwelling are being used as boarding houses. Stated that those violating laws should not be helped.
21. *Prentiss Searles, Walker Avenue*, day laborers are not all criminals, but unsupervised and without management, problems are going to exist. Thanked the police for their assistance in the neighborhood.
22. *Susan Payne, Gaithersburg resident*, expressed concern with the City not taking the recommendation of the Day Laborer Task Force for a center.

VII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Sesma

1. Expressed support for identifying a day laborer center site that meets the Task Force's Report.
2. Participated in the Kentlands/Lakelands 5k run/race and thanked the organizers. Stated that funds raised will be contributed to the Delores Swoyer Summer Camp Fund.
3. Attended the 68th Annual Labor Day Parade in Olde Towne Gaithersburg and thanked the residents of the Historic District for the area picnic.

Council Member Marraffa

1. Congratulated the residents of the Wells/Robertson House program on their successes.

2. Thanked staff for their efforts during the 68th Labor Day Parade in Olde Towne.
3. Encouraged citizens to come out and enjoy the Thursday night outdoor concerts in the City.
4. Invited the community to come and join the City on Sunday, September 17, 2006 to Celebrate Gaithersburg in Olde Towne. The Cable TV staff showed a quick commercial about the festival.
5. Expressed his opposition to a day laborer center in Gaithersburg due to the liability of hiring illegal residents and other illegal issues associated with day laborers. He suggested that a center be established and funded by the County and operate the workers through an unemployment process.

City Manager Humpton stated that staff has been working with the County who will fund the center. He further stated that staff has looked all over the City for a site. The County gave direction to the City that they will not fund a center if it is not in reasonable proximity of where the laborers live.

Mayor Katz directed City staff to contact the County and continue dialog regarding the criteria for a site and ask for assistance in locating a site outside the City limits.

Council Member Alster

1. Thanked the citizens for their input on the issues of day laborers and affordable housing. He commended staff on their efforts on such difficult issues.
2. Complimented staff and volunteers for the 5k run/race in the Kentlands/Lakelands and thanked those involved with the Labor Day Parade.
3. Announced a ceremony of reflection and remembrance honoring the fifth anniversary of the events of 9/11 will be held at Inspiration Park in the Kentlands on Monday, September 11, 2006 at 7 p.m. The City has partnered with the Kentlands Community Foundation on this event.

Council Member Edens

1. Referred to a memorandum the Mayor and City Council received regarding the U.S. Mayors Climate Protection Agreement (MCPA). The Maryland Chapter of the Sierra Club and several City residents has asked that the City join the campaign by signing the agreement. MCPA seeks to reduce global warming pollution by implementing policies and programs to reduce greenhouse emissions. She stated that City staff and the Environmental Affairs Committee recommended participating in the program.
2. Announced vacancies on the City's Boards, Commissions and Committees and encouraged citizens to send a letter if interested in serving.

Council Vice President Schlichting

1. Echoed thanks to staff and volunteers for the Labor Day Parade and 5k run/race.
2. Recognized citizen's comments during public appearances and stated that the City Council did embrace a majority of the recommendation of the Task Force. He stated that the City needs to investigate sites for a day laborer center beyond the City limits. He endorsed Pastor Derby's recommendation calling for more involvement of the faith community.
3. Asked for an update on the affordable housing ordinance. City Manager Humpton stated that the proposed ordinance was not ready for public hearing due to other issues staff is dealing with. City Manager Felton stated that staff is working on a number of projects, but that a draft ordinance will be in the next package of the Mayor and City Council and available to the public for review.

Mayor Katz

1. Reported that nominations for the Ethics Commission will be made within 30 days, along with the nominations for alternates on the Board of Appeals and Planning Commission.
2. He and the City Council formally stated that the City is not in favor of a day laborer site at 17 North Frederick Avenue.
3. Met with members of Action in Montgomery and received a petition from Emory Grove United Methodist Church asking for a minimum of 12 percent Moderately Price Dwelling Units, 12-1/2 percent for work force housing and a City comprehensive affordable housing policy.
4. Announced that the Mayor and City Council will not conduct a work session on Monday, September 11, 2006. The next regular Mayor and City Council meeting will be held on Monday, September 18, 2006.

VIII. FROM THE CITY MANAGER HUMPTON

Referred to a memorandum on the City's draft Adequate Public Facilities Ordinance for consideration. The Mayor and City Council gave guidance and directed staff to prepare the draft ordinance for public hearing to discuss further and receive input from citizens.

RECESSED THE MAYOR AND COUNCIL MEETING AT 9:25 P.M.
AND RECONVENED AT 9:45 P.M.

Mayor Katz recused himself from the meeting for the next agenda item, Council Vice President Schlichting presided.

IX. ORDINANCES AND RESOLUTIONS**Introduction of an Ordinance Declaring a One Hundred and Twenty (120) Day Deferral on Redevelopment of Multi-Family Dwellings in the R-18, R-20, R-H, CD, CBD, RPT, and MXD Zones**

City Manager Humpton stated that during the July 10, 2006 meeting of the Mayor and City Council, staff was directed to prepare an ordinance to implement a 120 day deferral on multi-family redevelopment. The deferral would give the Mayor and City Council an opportunity to adopt an affordable housing ordinance and accompanying regulations prior to any redevelopment that would displace lower income resident. Additionally, the deferment period would provide the opportunity to review the permitted densities in existing residential zones that are ripe for redevelopment and determine if any changes are appropriate.

City Attorney Borten stated staff has suggested a minor revision to the ordinance which refers to determining whether a property owner can be exempt from the redevelopment deferral, adding the language "or" at the end of subsection c.

Council Vice President Schlichting and Marraffa expressed opposition to the ordinance stating that it is not consistent with appropriate planning practices and inconsistent with the City's Strategic Plan.

Motion was made by Council Member Edens, seconded by Council Member Sesma, that the above Ordinance, be introduced.

Vote: 3-2 (Opposed: Marraffa and Schlichting)

Mayor returned at 9:55 p.m. to preside over the remainder of the Mayor and City Council meeting.

X. POLICY DISCUSSION AND STAFF GUIDANCE

1. **An Ordinance to Amend Chapter 10 of the City Code (Floodplain Ordinance), Article I, Entitled, "Site In General," Article II, Entitled, "Permit Process," Article III, Entitled, "Establishment Of Floodplain Zones," Article IV, "Development Regulations In Floodplain Zones," and Article V, Entitled "Specific Requirements" so as to Comply With Federal Emergency Management Requirements**

Community Planning Director Schwarz stated that a public hearing for the above ordinance was held on August 21, 2006, with no oral or written testimony received in the record.

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the above Ordinance (Ordinance No. O-10-06) be adopted.

Vote: 5-0

2. **Resolution for the Issuance and Sale of Economic Development Revenue Bonds by the City of Gaithersburg for Asbury Methodist Village, Inc. and Asbury-Solomons, Inc.**

Finance and Administration Director Belton stated a public hearing was held August 21, 2006 with the record closing on August 31, 2006. Prior to the closing of the record, six exhibits were received. He stated that after the closing, an additional letter was received.

Mayor Katz questioned the benefits the Asbury residents will receive by the City sponsoring the bond. Cheryl O'Donnell Guth, City's bond counsel, responded that the refinancing of the bond would provide quality jobs, a vibrant community for older residents, and economic development opportunities for businesses in the City. She stated that there are valid public purposes being served by the refinancing under the Maryland Economic Development Revenue Act. Peggy Kaplan, Esq., Asbury Methodist Village, Inc., further stated that refinancing the bonds would allow the flexibility of the community to move forward with strategic and master planning. The refinancing bond is not to exceed \$160,000,000.

Motion was made by Council Member Edens, seconded by, Council Member Alster, that a Resolution of the Mayor and City Council Authorizing the Issuance and Sale of Economic Development Revenue Bonds by the City of Gaithersburg for Asbury Methodist Village, Inc. and Asbury-Solomons, Inc. (Resolution No. R-91-06), be approved.

Vote: 5-0

3. **Resolution Adopting Special Conditions Associated With the GE Technology Park Special Study Area**

Planning and Code Administration Ossont stated a public hearing was held on July 17, 2006, record closing August 16, 2006. He stated that the special conditions required their own public hearings. The special conditions relate concurrency of development, comparable mix and density, future development and preservation of open space. He further stated that the Planning Commission recommended the elimination of the comparable mix and density special condition associated with the MXD Option, noting that the MXD Zone process currently includes compatibility standards and that the special condition would be difficult to implement without considerable definition. Staff prepared two draft resolutions for the City Council's review. One draft includes all three special conditions and the other reflects the Planning Commission's recommendation.

Motion was made by Council Member Edens, seconded by, Council Member Alster, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING SPECIAL CONDITIONS ASSOCIATED WITH THE ADOPTED GE TECHNOLOGY PARK SPECIAL STUDY AREA AMENDMENT TO THE LAND USE ELEMENT OF THE CITY OF GAITHERSBURG MASTER PLAN (Resolution No. R-92-06), be approved (version #1, approving Planning Commission's recommendation subject to the following revisions to: Land Use Option B, page 154, includes the following special condition: *Residential development of the Study Area shall be of comparable density and mix to the adjacent communities of Kentlands and Lakelands* .).

Vote: 3-2

XI. **ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 10:23 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant